

Durham County Council Property Strategy

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Introduction

The Council's vision for its property is

“Our property should contribute positively to the delivery of the Council's vision, be fit for purpose in the right place, with the right environment at a cost that represents value for money”

This vision aligns to the Council's Corporate priority, set out in the Council Plan, which is **‘to optimise the use of the property portfolio’** and also to our key property objectives of:

- Providing a portfolio that is fit for purpose and capable of supporting service delivery objectives
- Managing our portfolio, in a cost effective manner focusing on reducing direct property costs, and increasing revenue through the sale/letting of property and better use/management of our property portfolio.
- Identifying opportunities, in partnership, for shared use.
- Using our property, balancing opportunity with financial expediency, to support regeneration and economic development and;

In order to achieve our vision and key objectives the principle we will work to is:

“All land and property asset are a corporate resource and are not ‘owned’ by individual Services”

This ensures that co-ordination of asset management is carried out effectively, opportunities for shared use are recognised and property decisions around rationalisation and investment is being made corporately and strategically.

This Property Strategy sets out how we aim to achieve our objectives. In delivering our objectives will be:

- consistent with the County Durham Plan
- in line with the strategic objectives of the Regeneration Statement
- focussed on delivering savings and financial returns from its asset base
- addressing the requirements of the Community Building Strategy and the Office Accommodation Strategy.

1. Corporate Landlord

The Corporate Asset Management Plan sets out that we must manage our assets as a corporate resource to enable us to target inefficiencies in property use. This is recognised and championed at the highest level to ensure that decisions to rationalise, invest and acquire property to further service aims are considered corporately. This will ensure that opportunities for rationalisation and shared use are not missed and property investment decisions are considered corporately.

A corporate landlord approach to managing our assets is now in place and is designed to enable Councils to utilise its assets to deliver better, more efficient services:

- To unlock the value of assets and seek efficiencies
- To support the delivery of the Council Plan and
- To integrate thinking about property with financial, regeneration and other considerations

1.1 Our Approach

Under our Corporate Landlord approach strategic property decisions including capitalised maintenance works, rationalisation, shared use and whether to 'hold' a property for existing or anticipated strategic purposes, is made by the Assets Service, by way of recommended to either the Asset Officer Working Group, Member Officer Working Group, CMT and/or Cabinet – depending on the nature of the recommendation. This responsibility includes decisions associated with the:

- acquisition or disposal of land and property assets (the approach is set out in detail in the Acquisitions and Disposal Strategy;
- acquisition of property by way of lease or licence;
- shared property service or use in association with partners and
- Retention and release of land and property assets (the approach is set out below at Property Review)

Funding requests for Capital works are made by Services directly to the Member Officer Working Group.

Decisions around Revenue Maintenance works (day to day works) are made by Service Direct with funding now having being transferred from the Service Department. The Assets Service/Service Direct will work alongside Services to ensure that maintenance works is planned and carried out alongside service delivery need.

Service Departments are therefore 'corporate tenants' and make use of the property or land in delivering a service. The service department's priority is to plan and deliver the service. The Corporate landlord's role will be to ensure that the service is adequately accommodated and to maintain and manage that asset.

Set out below are the strategic tools we will use to identify Corporate property need, service delivery property requirements and what will undertake to ensure that we only hold and maintain in property that we need to delivery the Councils Priorities. Attached at **Appendix A** is a summary of the Service areas 'tenant' and the 'Corporate landlord' responsibilities.

2. Service Asset Management Plans

Directorate Service Asset Management Plans (SAMPs) are in place for all Service Groups and provide an essential component in our approach for efficient and cost effective service delivery. Through the SAMPs we have developed a forward looking approach to property, which goes beyond the current examination of service property needs and property availability. This helps us to determine where we would like to be with our service provision in the medium to long term, enabling us to strategically drive our property portfolio in that direction. SAMPs have required us to match service delivery vision with asset requirements, ensuring that any changes in service property requirements are informed by long term service requirements and not the other way around.

Service Asset Management Plans will be updated annually through from September to February. This will require close co-operation between Service Groupings and Assets together with 'ownership' at the highest possible Service level for delivery of projects that will help to close service property gaps. SAMPs will be used to assist in the service and budget planning processes and will also be used by the Council to:

- formulate a planned maintenance and repair programme
- consider adaptations, refurbishment works and new build projects as part of the Capital Programme
- consider cross-service delivery and partnership opportunities for property which lead to rationalisation and
- formulate a planned disposal programme for any surplus land and property

[Service Land and Property requirements not identified through the SAMP process will not be considered for investment except in circumstances where emergencies or opportunities arise which could not be reasonably foreseen.](#)

3. Property Review

The Council owns approximately 1118 properties used to deliver service with a backlog maintenance need estimated at £117.1 million.

We need to appraise all of our property assets to determine whether they are fit for purpose, and capable of supporting service delivery. A programme of property reviews has therefore been developed and is underway.

Service Groupings are required to fully co-operate with the Asset Strategy Team and or Office Accommodation Team, regarding delivery timescales and provision of data/information that will inform the review and ultimately, service property requirements. Services are required to be pragmatic in looking for solutions and consider the wider corporate agenda as well as their own in discussing requirements.

Asset Strategy will deliver the portfolio property reviews (in the case of non office accommodation) in accordance with the timescales identified in the programme unless, through the SAMPs a property gap has been identified and/or corporate requirement determines timescale. The Asset Officer Working Group will agree timescales for delivery, monitor progress and make recommendations to CMT.

3.1 Property Review Methodology (Operational Property)*

Information on property, suitability, condition, running costs and utilisation will be used to identify poorly performing property, rationalisation opportunities and priorities for action. A simple traffic light grading system will be used to grade properties and a 'property score card' will be used to categorise property within a portfolio service area. The type of issues that support each categorisation of red, amber and green are shown below:

Red	<ul style="list-style-type: none"> • The property is not located appropriately for service use • The property is not suitable in terms of its service use and this is impacting on service delivery • Requires substantial investment to address condition issues and/or DDA works • The property is significantly under utilised • The property is no longer required due to changes in service strategy
Amber	<ul style="list-style-type: none"> • Some elements of the property do not support service use or service delivery • Requires a fairly high level of investment to address condition and/or DDA works • May require adaptation works to achieve better utilisation
Green	<ul style="list-style-type: none"> • Supports service use or service delivery • May require minor maintenance/DDA works as part of a planned maintenance programme • May have scope for increased utilisation which could be achieved through minimum investment

From this each of these categories can then be developed in more detail into individual appraisal and implementation strategies

**Operational Property – Land and buildings from which the Council delivers its Services e.g. Libraries, Leisure Centres, Schools etc.*

The property review, financial review and market review undertaken will determine a specific management focus set out below. The final categorisation will be used to determine investment needs of those assets to be retained and indicative capital release and cost savings from released assets.

RETAIN	Continued maintenance	<p>The building is required, in reasonable condition in a good location, suitable for its existing use and with limited alternative use value. Retention of the asset is in line with the Councils service/regeneration/Office Accommodation Strategy objectives and no better alternatives exist</p> <p>Management Focus - preventative maintenance</p>
	Better Utilisation	<p>Building is needed in accordance with the Councils service/regeneration/Office Accommodation Strategy objectives, is well located, in good condition and with limited alternative use value but is not performing well in terms of utilisation.</p> <p>Management Focus - intensifying use.</p>
	Major Investment	<p>Building is required for the service in accordance with the Councils service/regeneration/Office Accommodation Strategy objectives and is well located but is not in a good condition or not fit for purpose. Costs of replacement are high and there are no alternative so:</p> <p>Management Focus - refurbishment.</p>
	Short term development opportunity	<p>The building is not suitable for its current use, or is in a poor condition or not well located It represents a development opportunity in the short term or a capital receipt from disposal and is not required for the Councils service/regeneration or Office Accommodation Strategy objectives.</p> <p>Management Focus - short term disposal</p>
RELEASE	Long term development opportunity	<p>As above but the building's development potential is in the longer rather than short term. Focus may therefore be on continue use in the short term pending release or demolition with retention of land</p> <p>Management Focus - retention, maintenance and longer term disposal</p>
	Re-provision	<p>The service has a need for the building but the current one is either not fit for purpose, poorly located or in a poor condition. This should be released and alternative property sourced. Re-provision should be in accordance with the Councils regeneration/Office Accommodation Strategy objectives.</p> <p>Management Focus - alternative provision</p>

3.2 Property Review Methodology (Non Operational Property)*

The Council owns and manages approximately 270 commercially leased properties including industrial units, shops and many other miscellaneous minor Leases and Licences. The total rent receipt of this estate is approximately £3.68 million. Appraising the Council's non operational (commercial and investment estate) will be based on an assessment of the relevant market data for these assets, as well as whether the asset meets the Council's strategic and operational goals. Non Operational property reviews are included in the Council's Property Review Programme.

Information on delivery of Service objectives, financial return and value for money will be used to evaluate performance. Again a simple traffic light system will be used to grade properties. The types of issues used to support each categorisation of red, amber and green are shown below:

Red	<ul style="list-style-type: none"> The property does not contribute towards securing the Council's Regeneration and Economic Development objectives The property is significantly under performing in terms of financial return The property represents significant investment requirements in terms of the Council's repairing obligations
Amber	<ul style="list-style-type: none"> Some elements of the property demonstrate that objectives and priorities are being met e.g. creating or helping to safeguarding job creation The property is moderately underperforming in terms of financial return Moderate investment is required in terms of the Council's repairing obligations
Green	<ul style="list-style-type: none"> Supports the delivery of Regeneration and Economic Development objectives The property is performing in terms of financial return There is minimum investment required in terms of repairing obligations

From this each of these categories can then be developed in more detail into individual appraisal and implementation strategies

3.2.1 Appraisal process

The property review undertaken will determine a specific management focus set out below. The final categorisation will be used to determine whether we will retain or sell non operational property.

RETAIN	Active management	<p>The building is required to delivery corporate objectives, maintenance repairing obligations, and management costs are low; annual income rises in accordance with inflation and the premises is not void for greater than six years.</p> <p>Management Focus - Active management</p>
	Investment	<p>The building is required to deliver corporate objectives, maintenance obligations are moderate and it can be demonstrated that investment would improve performance and income stream; annual income rises in accordance with inflation and the premises is not void for greater than six years.</p> <p>Management Focus - planned and preventative maintenance</p>

**Non Operational Property – Land and buildings such as industrial units, retail premises, ground leases – generally retained for the purposes of generating an income or for social or economic regeneration purposes*

RELEASE	Short term development opportunity	The building does not meet corporate objectives, maintenance obligations and management costs are high, annual income does not rise in accordance with inflation, the premises has been void for long periods. Management Focus - short term disposal
	Long term development opportunity	As above but the building's development potential is in the longer rather than short term. Focus may therefore be on continue use in the short term pending release or demolition with retention of land Management Focus - retention, maintenance and longer term disposal

3.4 Outputs and Implementation

Review of the Councils property assets both operational and non operational will:

- Define assets to dispose/retain/invest
- Define property options for service delivery
- Define accommodation requirement

Implementation plans resulting from the property review, will be developed as follows:

Disposals / Development. This is broken down into two main sections:

- **Disposal Programme** – Assets deemed surplus to requirements, the value of which can best be derived through disposal to the market will be included in the Councils Disposal Programme and will be disposed of in accordance with the Council's Acquisitions and Disposal Strategy (see Section 5 below)
- **Joint Venture approaches** – Asset that could potentially best be used as part of a partnership approach with the public and private sector to deliver development / return. These assets will be held/disposed of the basis of a joint venture.

Retained Assets. This is again broken down into 4 main sections:

- **Accommodation solutions** – The asset base that is to be retained/ developed as operational premises for the Council
- **Regeneration Strategy** – Assets that are to be retained to further specific regeneration schemes;
- **Community benefits** - Assets that are to be retained to further specific community benefits
- **Commercial Estate** – This builds on the commercial estate review to develop an implementation plan to retain, dispose of or further investigate the Council's asset base.

4. Approach to Capital Receipts

The Council's capital programme whilst reducing is only made up of a small proportion of capital receipts from the sale of surplus land and property. It is therefore a consideration that whilst land and property is surplus, we are not pressured to sell at the wrong time and therefore not achieve the highest price in the longer term.

Disposal of surplus land and property, whilst we are not dependent on this to fund the capital programme entirely, will therefore take into consideration:

- the development potential of neighbouring land;
- new land becoming available which therefore impact on the value of our land;
- regeneration opportunities that may exist through the use of this land.

Capital receipts from the sale of surplus land and property will be used to support the delivery of the Councils corporate aims and objectives.

Capital receipts from the disposal of land and assets will not be 'ring fenced' notwithstanding that a service area may have, or have had, use of this land/property for service delivery purposes.

Service areas will have the opportunity to request capital funding through the Councils Capital 'bidding' process which will be considered by the Member Officer Working Group.

5. DISPOSAL STRATEGY

To assist the Council in making best use of its assets and to support the delivery of our Property Strategy, we need to establish and set out our processes and procedures for how we will:

- Identify and declare assets as surplus,
- Manage the asset prior to disposal and;
- Formally dispose of the assets

In establishing this, it should be acknowledged however, that each land disposal is treated on its own merits and nothing in this strategy will bind the Council to a particular course of action in respect of an asset disposal. Alternative methods of disposal, not specifically mentioned, may be used where appropriate, subject to obtaining proper authority.

5.1.1 Definition of a Disposal

The transfer of a freehold or a leasehold interest to a third party, surrenders of leases to landlords or assignments of leases to third parties for the payment of a premium or a reverse premium.

5.1.2 Statutory Powers for Disposal

The disposal of assets are subject to statutory provisions, in particular the overriding duty on the Council under section 123 of the Local Government Act 1972 to obtain the best consideration that can be reasonably obtained for the disposal of land which includes the granting of leases in excess of 7 years.

This applies to assets held for most Local Authority functions, except for the notable exceptions of disposals of assets held for housing purposes within the Housing Revenue Account or otherwise let on secure tenancies (governed by the Housing Acts) and for planning purposes (governed by planning legislation).

The General Disposal Consent (England) 2003 gives a Local Authority the ability to dispose of assets, or grant a lease in excess of 7 years for less than the best consideration reasonably obtainable, where:-

- The Authority considers that the purpose for which the land and property is to be disposed is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area or any persons resident or present in its area; and
- The difference between the full market value and the actual consideration payable does not exceed £2m

If the Council wish to dispose of assets for less than best consideration, and it is not covered by the General Disposal Consent, the Council can resolve to do so, but will require the formal consent of the Secretary of State for Communities and Local Government (CLG).

Such disposals can be subject to a challenge that the Council is needlessly foregoing receipts and it is therefore essential that such disposals only take place in clear furtherance of Council priorities.

If it is considered that an asset is used for social, community and public purposes and the benefits of that service are deemed to outweigh the value of continuing ownership by the County Council on behalf of all Council Tax payers, then the Council may consider the transfer of the asset to a community group. This may or may not be at less than market value and determined by considerations such as:

- The furtherance of core Council policies.
- That it is a more effective method of delivering that service.

Any such transfer must be conducted in accordance with a consistent policy of transferring these assets to ensure that the Council retains the ability to intervene and seek possession of its asset if it is identified that the transferee is no longer able to provide the community service that led to the transfer at less than market value. To retain such control it is therefore recommended that transfer be through the grant of a leasehold transfer with highly restrictive user clauses to strictly specify use as a community asset linked to its stated objectives of the group.

5.2 The process for identifying and declaring assets surplus to requirements

5.2.1 Definition of Surplus Property

Property should be regarded as being surplus if:

- It makes no contribution to delivery of the authority's services, corporate aims or objectives, either directly or indirectly, nor generates income and has no potential for future service delivery or community regeneration purposes.
- An alternative site has been identified which would achieve a more cost effective delivery of service and the existing site has no potential for future alternative service delivery or regeneration purposes.
- Its disposal is important for the delivery of the Council's aims and objectives

5.2.2 Definition of Under-Performing Property

Property should be deemed to be under-performing and with potential for being declared surplus to requirements if:

- Part of the property is vacant and likely to remain vacant for some time.
- The beneficial use or financial return (in terms of both revenue and capital growth) generated from the property is below that which could be achieved from an alternative use, or from a disposal and an alternative investment opportunity.

5.2.3 Identification Process

The process for identifying surplus or underperforming property will arise in a number of ways as follows:-

- Service Asset Management Plan processes
- Service reviews declaring property no longer meeting operational needs.
- Property review processes (see section 3 above)
- Accommodation/Service Strategies
- Condition Surveys
- Local Plan designation and development of a Local Development Framework.
- Master-Planning exercises
- Regeneration schemes
- Property has potential for development or redevelopment and service can be relocated.
- Capital Accounting valuation processes which considers development/alternative uses.
- Approaches from third parties e.g. developers, adjoining owners.
- Entering into development partnerships such as asset backed vehicles or local housing companies.
- Requests from community groups or public bodies to transfer assets.
- Where a statutory duty to transfer arises.

5.2.4 Disposal of non surplus or under-performing assets for community regeneration

It is acknowledged that there are occasions where the Authority may wish to dispose of property that is not formally classified as surplus or considered to be under-performing. Examples include disposals to developers for community regeneration schemes by way of asset backed vehicles or nominated registered housing associations for the development of affordable housing and extra care schemes.

The Council has approved a Policy for the “Disposals of Land at an Undervalue” which was approved by Cabinet on 11th November 2009.

5.2.5 External consents and formal notification of a disposal

External consents are required to declare certain types of properties surplus i.e. schools where DfE and Sports Council consent is required and public open space that has to be advertised. This process should be commenced at the earliest opportunity as it can take some considerable time to obtain these consents.

Once a property has been identified as being potentially surplus, The Asset Service will establish whether there are any constraints on the site such as legal, planning, statutory authorities and government policy. It will also establish whether there are any financial constraints such as the property having been the subject of funding in the past that necessitates the repayment of grant monies.

5.2.6 Notice Procedure

Service Departments must give the Assets Team within the Regeneration and Economic Development Directorate at least three months written notice of their intention to vacate County Council property. In instances where properties are leased in by the Authority, Assets will send a trigger notice to the occupying service and a joint decision will be taken as to whether to renew the lease and preferably heads of terms for a new agreement.

At the expiry of the three months period of notice, the Service Department must leave the property in a clean and tidy condition to the satisfaction of the of the Assets Service . The following actions will need to be undertaken and responsibility for carrying these actions will need to be agreed in advance of notice between the Assets Service and the Service Grouping. These actions will include:

- servicing contracts
- Meter readings
- intruder and fire alarms
- draining down of pipes
- handover of keys
- removal of furniture and equipment
- security
- risk assessment
- responsibility for ensuring payments for outgoings such as NNDR are stopped

5.2.7 Decision Making Process

Once a property falls within the category of surplus, The Assets Service will then instigate a process of consultation before seeking a formal approval, as set out in the Councils constitution, to declare a property as being surplus to requirements. Properties should only be sold after rigorous option appraisal testing for retained future authority needs and those of related bodies. Consultees will include other Council Services including the Community Development Team to notify of any potential Third Sector interest, Ward Members, Public Sector partners, local Parish and Town Councils and tenants of the property if appropriate.

5.2.8 Community Asset Transfer

The Authority has developed a separate approach for the transfer of assets to the community, with transfers being considered where they are:

- supported by a robust business case,
- the transferee has sound long term management and governance arrangements

- the proposed use for the property meets the authority's aims and objectives and community strategy,
- there is as agreed time scale within which a disposal is expected to be completed, and,
- certainty of funding.

5.3 Managing the Asset Prior to disposal

5.3.1 Management Responsibilities

The Assets Service is responsible for the management of the surplus property from an agreed date at the end of the three month formal notice period. If any temporary use is to be made of a surplus property for storage, temporary occupation, etc, this must be first agreed with the Assets. No demolition work is to be carried out to any surplus property without the prior inspection of the property by the Asset Management and their approval in writing. Assets, in consultation with the Service department, will be responsible for formally advising all interested parties that with effect from a specified date, Assets are responsible for a property with details of the and the lead contact officer during the disposal stage.

5.3.2 Budget Responsibilities

The Service Grouping will retain responsibility for all outgoings required to manage the property prior to its disposal and will benefit from those property running costs savings made as a consequence of disposal.

Where a requirement to demolished a property prior to disposal is identified, the costs for doing so will be met by the Council's Capitalised Maintenance Budget, where budget availability allows and where the Assets Service determine that it is in the best interests of the Council to do so, in terms of maximising the return to the Council.

Expenditure in relation to school buildings such as heating, lighting, rates, water, caretaking and cleaning are part of a delegated school budgets and the resources, on closure, stay within the Dedicated Schools Grant. There is no scope to direct these funds to Assets unless in relation to Aided schools, Foundation schools or Academies. In these circumstances, any costs associated with empty properties will be addressed by Assets through its Surplus Property Budget, with any exceptional costs to be treated as outside the Planning and Assets cash limit.

5.3.3 Data collection

A schedule of all surplus and potentially surplus property will be held by the Assets Service. This will be managed and updated by the Assets Strategy Team. To protect the integrity of the data and to ensure that the schedule remains accurate an up to date, access to the surplus property schedule will be only be made available to key service representatives.

5.4 Disposal of surplus assets

5.4.1 Timescale

Surplus assets will be disposed of as expeditiously as possible. It is recognised however that in the interests of proper budgetary planning, the timing of a disposal needs to be considered against the background of the authority's budget and capital programme requirements, current state of the market, local and regional planning framework and potential for property value to increase in the future. Once these factors have been assessed the disposal will be included in the Councils formal Disposal Programme.

In determining the optimum time to dispose of surplus assets:

- Consideration will be given to obtaining planning consent or investment in the property prior to disposal to enhance its value and make it more attractive to the market.
- Consideration will be given to find a temporary use when the market is not conducive to a disposal. This will circumvent the requirement for payment of Empty Property rates and security costs. In circumstances where the use is an external letting, a contracted out lease under the Landlord and Tenant Act 1954 will be favoured. This will enable vacant possession of the property, to be obtained more easily.

5.4.2 Disposal Process

All disposals will be arranged and managed by the Assets Service. The Council will obtain the best consideration by the most appropriate method of disposal although consideration does not necessarily need to be financial.

Where appropriate, a planning brief will be prepared and included in sales particulars. It is acknowledged that purchasers will have their own development preferences and it is important not to be too prescriptive in stifling innovation to ensure best consideration is achieved and potential bidders are not deterred. On sensitive or large sites it is accepted that a brief will be required but given the resources and potential delays that this would cause, the Assets Service will have the discretion as to whether a brief is required.

Consideration needs to be given at all times to the confidentiality of all property transactions particularly until legal formalities are completed.

5.4.3 Valuations

A valuation of the property for disposal will be undertaken at the earliest opportunity in the process by a suitably qualified member of the Royal Institution of Chartered Surveyors, and continually reviewed through the disposal process. All valuations should be counter-signed and approved by the Valuer's line manager.

Where it is decided to negotiate a disposal to a single party, rather than offer on the open market, all negotiations for disposals should be conducted or advised by a suitably qualified property professional, preferably a member of the Royal Institution of Chartered Surveyors.

Ombudsman guidance recommends that all negotiations should be conducted at the offices of the Council and with two people negotiating. Clearly both are unrealistic for every case but there may well be certain circumstances when one or both are appropriate to ensure and demonstrate that best practice is being adhered to.

5.4.4 Disposal at less than best consideration

The policy to be followed in disposals of land at an undervalue is referred to above. In addition where a disposal is undertaken at less than best price, then to protect the authority's interest in the event of subsequent sales, it should include, where, appropriate an asset lock, claw back or uplift clause, restrictive covenants, ransom strip retention, user rights or right of preemption.

Also a valuation should be undertaken to identify the undervalue (unrestricted less restricted value) and an attempt should be made to financially value the economic, social or environmental benefits to the authority and community which justify a disposal at less than best price.

The overriding factor to be considered when disposing at below the best price is to ensure that it is within the authority's power to so, and the reasons are well documented, transparent and justifiable.

5.4.5 Method of disposal

The most appropriate method of disposal should be adopted from the following and **Appendix B** sets out an operational guidance note for each method of sale:-

METHOD:	WHEN USED:
<p>OPEN MARKET DISPOSALS</p> <ul style="list-style-type: none"> • Private Sale/Treaty • Auction • Tender –Informal • Tender –Formal 	<p>Limited interest with one or a small number of purchasers with a narrow valuation band. The land may or may not have been marketed as available for sale. A binding legal agreement is created on 'exchange of contracts' between the Council and the purchaser.</p> <p>Wide interest and easy to allocate a reserve. The sale will be advertised in advance and available to any interested party. A binding legal agreement is created upon the acceptance of a bid by the auctioneer</p> <p>Appropriate for sales where there are uncertainties such as planning, and, large or complex redevelopment sites. Involves a public advert that requests informal offers or bids that meet a given specification or set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder.</p> <p>Wide interest, land ownership not complex, no uncertainties regarding the grant of planning permission, wide valuation band. Marketed via a process of public advert and tenders submitted by a given date in accordance with a strict procedure. A binding legal agreement is created upon the acceptance of a tender by the Council</p>
<p>DIRECT NEGOTIATION WITH SPECIAL PURCHASER</p>	<ul style="list-style-type: none"> • Sale to adjoining owner or lessee where special circumstances appertain. • Conditional disposal where authority is selling for a particular purpose i.e. to a developer for regeneration, to a nominated housing association for social housing development • Sales to former owners under the Crichel Down rules

<p>DISPOSAL BY EXCHANGE OF LAND</p> <p>EXCEPTIONS</p>	<p>Appropriate when it will achieve best consideration for the Authority and is advantageous to the Council and other parties to exchange land in their ownerships.</p> <p>The exchange will usually be equal in value but an inequality in land value may be compensated for by an equality payment or by other means where appropriate.</p> <p>Other methods of disposal may be used where circumstances warrant.</p>
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5.4.6 Dealing with Late Bids

The Guidance from the Local Government Ombudsman recognises the problem caused to local authorities by 'late bids'. The Guidance says that difficulties are less likely if Council's ensure that exchange of contracts take place as quickly as possible after the decision to sell (or lease) is made. It suggests that local authorities should be allowed to sell at an agreed price within a reasonable period of reaching a 'subject to contract' agreement. Guidance for dealing with late bids is set out in **Appendix B**

5.4.7 Tenure

In cases where the Council does not wish to exercise any control over the future use of the property, other than through the planning process, then the disposal of the freehold will obtain the best price. In certain instances however, the Council may want to exercise some control of the future use of the land. In such cases restrictive covenants and/or claw back clauses may be appropriate or a leasehold disposal for a term necessary to ensure the satisfactory completion of the scheme. For example, a leasehold transfer to the community will usually need to be for at least 25 years to obtain the necessary grant funding.

A leasehold disposal to a developer for a major town centre mixed use regeneration scheme may need at least 150 years to secure institutional funding. Due to the complexity and time frames involved a Development Agreement will also usually be entered into before a formal disposal is concluded, plus in many instances a section 106 agreement setting out conditions and contributions to the community through the planning system. It is recommended that the property disposal and section 106 agreements be negotiated in parallel in order to maximise the benefits to the authority.

It is now becoming the norm for major regeneration disposals to be negotiated by dedicated teams of assets, finance, and legal professionals representing the authority, developer and funding bodies. Unless the Council has the necessary skills in-house it is recommended that the use of appropriate private sector specialists for these types of disposals is considered.

5.4.8 Disposal Costs

Surveyors Fees should be recovered from purchasers in accordance with the existing fees and Charges policy. At present these are:-

- Responsive Sales – 2% of disposal price with an initial £200 processing fee
- Open market disposals – 2.5% of disposal price with a minimum fee of £1,000

Purchasers would also be responsible for the payment of the Councils actual legal costs

5.4.9 Marketing Strategy

An appropriate marketing strategy should be developed, either in house or for external disposal, with all costs being charged to the appropriate property cost centre.

5.4.10 Performance Management

Capital Receipts targets will be assessed annually and progress will be monitored by the Asset Officer Working Group and reported bi- annually to the Capital Member /Officer Working Group.

6. ACQUISITION STRATEGY

6.1 Purpose of the Acquisition Strategy

The County Council undertakes a wide variety of acquisitions of interests in land and property, over a range of different services. To ensure that there is a consistency of approach involving appropriately qualified officers, it is appropriate that the Council develops and implements a formal Acquisition Strategy to form part of its overall Asset Management Planning processes.

One of the core principles of the Councils Asset Management vision, set out in the Corporate Asset, Management Plan is to provide:-

- Buildings that are fit for purpose, sustainable, providing access for all, meeting service needs and community expectations, and,
- Assets that support economic and environmental regeneration of the County

It is logical therefore that these principles underpin the acquisition of all land and property assets in addition to making a contribution to the Councils aims and objectives.

6.1.1 Definition of an Acquisition

This strategy will apply to all acquisitions of land and property and for the purpose of this strategy, an acquisition is defined as the taking of a freehold, leasehold or licence in land and property.

6.1.2 Statutory Powers for an Acquisition

Under the Local Government Act 1972 the Council has powers to acquire any property or rights which facilitates, or is conducive or incidental to, the discharge of any of its functions.

6.2 The Process for acquiring assets

6.2.1 Procedure

In all cases where the acquisition of an interest in land and property is being considered by the Council that will materially affect the Council's Asset base, then the acquisition must be carried out and negotiated by the Assets Service.

All valuations must be carried out or verified by a fully qualified member of the Royal Institution of Chartered Surveyors with sufficient current local knowledge of the particular market, and the skills and understanding necessary to undertake/verify the valuation competently. Services must therefore instruct Assets at the earliest possible opportunity.

6.2.2 Budget Responsibilities

It will be the responsibility of the service to ensure funding is in place to complete an acquisition and advise the Assets Service of the budget available.

The Assets Service will work closely with the service supporting the acquisition to consider service objectives. If appropriate, Assets will provide advice on possible amendments to the proposal which might facilitate service objectives by reducing the initial and long term costs of acquisition, the likelihood or otherwise of the use of Compulsory Purchase powers and options for reducing the likelihood of objections to the scheme.

Assets will report back to the service with details of findings and seek further instructions.

6.2.3 Acquisition Process

If instructed to proceed with an acquisition it will be carried out in accordance with rules laid down by the relevant professional bodies, Statute and Case Law. In addition, each element of the acquisition must be carried out in strict compliance with all relevant Public Sector and Local Government Legislation, Statutory Instruments, Government Circulars, and existing County Council procedures, policies and Standing Orders.

The Assets Service will negotiate terms and conditions for an acquisition and liaise with the service throughout the process. Once agreement has been reached Asset Management will prepare a report for Cabinet to obtain authority to proceed.

There may be circumstances where services will become involved in negotiations directly with the properties owners or agents to acquire an interest in property. In such circumstances services must receive valuation advice from Assets Management for utilisation in negotiations.

If Cabinet approval is obtained then the Assets Service will instruct Legal Services to proceed with formalising the acquisition. Instructions will include all necessary plans and details of any special arrangements necessary to ensure that vacant possession is obtained prior to completion. The Assets Service will assist Legal Services throughout the process until completion.

6.2.4 Management Responsibility

Where appropriate, Assets and the service representatives will carry out a pre-completion inspection of the property and if necessary seek instructions from the service regarding the interim management of the property acquired pending development or occupation.

6.2.5 Data Collection

In all cases where an acquisition occurs, arrangements will be made to ensure that details are recorded in the Council's Asset Management records and Terrier records. Where appropriate a review of the County Council's Rating / Council Tax and insurance liabilities is also to be instigated

6.2.6 Performance Management

The Acquisition process will be monitored in regular review meetings between the responsible officers to be held as agreed between the parties. Incidences of poor performance shall be discussed and referred to the Corporate Director Resources and the relevant Head of Client Service for further investigation and action as necessary.

REGNERATION AND ECONOMIC DEVELOPMENT	
We Assets are responsible for.....	You (Services) are responsible for
Production, review and annual updating of Corporate Asset Management Plan (CAMP)	Co-operating with and contributing to the updating of this Plan
Co-ordination and joint Chair of Asset Officer Working Group	Contributing to and supporting the development and implementation of the Groups agenda
Co-ordinating and producing the Service Asset Management Plan (SAMP) for your directorate	<ul style="list-style-type: none"> Co-operating with the updating of the plans including appointing responsible officers to support the SAMP process. Establishing a Service Asset Management Group who will oversee the delivery of projects that will close service property gaps and identify any new ones.
Working with you to determine how the Council's assets can best support your service requirements	Having a designated service project lead and co-ordinator
Helping you to develop option appraisals if required	Considering the medium and long term impacts of your projects
Regularly reviewing all council owned property	Let us know of any changes to your service which will impact what you want from property and what you require to deliver your service requirements
Arranging leases for occupation of new premises and making arrangements for tenants to occupy all or any parts of our premises	<ul style="list-style-type: none"> Informing us of all new accommodation requirements and occupying property only through formal and legal tenancy arrangements Informing us of opportunities to share the use of our property with third parties
Ensuring the terms of the lease are complied with (if appropriate)	Work with us to co-ordinate the work
Delivering the Office Accommodation Strategy – the focus of which will be on placing service around customer need and area based service delivery models based on demographics and not based on want	<ul style="list-style-type: none"> Co-operating with in terms of recommendations and subsequent office moves Staff to only re-locate where agreed in advance
Co-ordinating condition surveys on Council owned occupied premises (this will be carried out every five years subject to funding)	allowing Technical Services (who will carry out the Condition Surveys) access to the premises as required
Maintaining a list of capital maintenance requirements for Council occupied premises – and prioritising requirements	Contribute to the Service Asset Management Plan – and let us know of changing service needs so we develop any required changes to the property portfolio
Produce a capital programme to meet with the core aims of reducing backlog maintenance and ensuring property is maintained at a suitable condition level	Ensure that Assets are aware of any major improvements by use of your own funding or capital funding, and where practical provide sufficient information in the Service Asset Management Plan to assist with informing the programme development
Maintaining a corporate property information system (IPF Asset Manager) to hold property data. Provide system support and administration for all users,	Ensure that Assets are aware of any in-service property changes including room use, improvements, and demolitions and to also confirm whether data held in the corporate property information system is accurate and up to date. Any changes required should be directed to assetinfo@durham.gov.uk
Ensuring that each property has a CAD plan for input in the corporate property information system	Allow staff to have access as required to carry out building surveys

Maintaining a geographical representation of the Council's land and property holdings (Terrier)	Confirming whether the terrier data held is accurate and up to date. Any changes required should be directed to assetinfo@durham.gov.uk
Collating and maintaining property details on Council land and property holdings including lease information	
Letting you know jointly with Technical Services when improvements to property condition are taking place that will effect the operation of the building	Letting us Assets, Technical Services, Direct Service or appointed contractors) have access as required to carry out inspections or works
Arranging to liaise with other services where premises become surplus to service delivery requirements and declaring property surplus to the Councils requirements where appropriate	Informing us in accordance with the Disposals and Acquisitions policy three months before a property will be surplus to service use requirements. Arranging to decommission the building including removal of all fixtures and fittings and disconnection of services

NEIGHBOURHOOD SERVICES

We Technical Services are responsible for	You (Services) are responsible for
Managing the property repairs and maintenance budgets centrally	Ensuring all requests for repairs and maintenance are processed through the Property Help Desk
Regularly carrying out inspections and reviewing activities to ensure premises remain legislatively compliant	Co operating with Technical Services in ensuring legislative compliance with Corporate Health and safety requirements
Liasing with specialists to arrange for surveys and inspections to be carried out	Co operating with us in carrying our the required survey works i.e. Asbestos, Access Audits

GUIDANCE FOR DISPOSAL METHODS

Disposal by private sale/treaty

A disposal by private sale may take place after a period during which the land is put on the open market including advertising and generally marketing including signage that it is available for sale. In this case, the Council will be able to consider the highest bid as representing the best consideration that can be reasonably obtained. A disposal by private treaty can have a closing date and be by way of inviting sealed bids by that date if considerable interest is anticipated.

If land is to be sold by private sale without being marketed, then the reasons justifying a private sale must be recorded in writing. In some circumstances the Council may seek an independent valuation to verify that 'best consideration' is being obtained.

A private sale without the land being marketed may be justified where:

- the land to be disposed of is relatively small in size and an adjoining or closely located landowner(s) is (are) the only potential or likely purchaser(s);
- the nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained;
- the Council's corporate objectives and best consideration can best be achieved by a sale to a particular purchaser;
- the sale is to a non-profit making organisation and the role of that organisation is conducive to the improvement of public services and facilities available within the County Council
- the purchaser has a particular interest in purchasing the premises or a particular association with the premises and where open marketing of the premises may lead that particular purchaser to reduce the value of their offer for the premises or withdraw their interest in the premises altogether;
- the purchaser has a particular interest in purchasing the site or a particular association with the site and where in the opinion of the Portfolio Members for Resources and Economic Regeneration and Development, open marketing of the site may cause undue hardship or unrest for that particular purchaser or where the sale of the premises to a party other than that particular individual would substantially and detrimentally affect the normal operation of the business associated with the premises;
- the disposal is as a result of the Right to Buy scheme.
- the Crichel Down Rules apply and the Council has decided to sell the land to the person from whom it acquired the land.

A legally binding agreement will not be reached until either contracts for the lease or sale of land are exchanged or a development agreement is signed.

Disposal by auction

Sale by auction may be appropriate where there is no obvious potential purchaser and where speed and best price can be publicly demonstrated.

The authority of the Corporate Directors of Regeneration and Economic Development and Resources will be required, providing the reasons for a sale by public auction. A Council officer shall attend the auction to act on behalf of the Council.

The contract for sale or lease must be ready for exchange at the auction.

The binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed and exchanged.

Disposal by informal tender

A disposal by informal/negotiated tender differs from a formal tender in that neither the Council nor the successful bidder is legally obliged to enter into a contract for the disposal of the land. The informal tender process allows the Council to identify one preferred bidder with whom it may then negotiate further detailed terms or proposals for the development of the land concerned.

The Council may, as a part of the disposal process, request best and final offers for a sale, or informal development proposals for land that either meet a given specification, or a request for proposals. This process is particularly useful for large or complex development or regeneration sites requiring development and where the proposals may need to be developed in co-operation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.

Although not a formal tender, after the closing date these are formally recorded by the Head of Legal Services as a record of the offers received.

A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.

This method is suited to sales where there are uncertainties, particularly planning, and allows for use of conditional contracts, including clauses which can allow for further sums to become payable upon grant of planning permission at different points in the future.

Disposal by formal tender

A sale of land by formal tender may be appropriate where:

- the land ownership is not complex;
- legal documentation for contracts/transfer are in place together with statutory searches and replies to standard enquiries;
- there are no uncertainties as to grant of a planning consent; and
- the Council is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance.

Alternatively, this method can be considered where all matters to enable a tenderer to come to a firm price and raise funding for the purchase are in place and available as part of the tender package. For example, the disposal of land to a developer with an obligation to build industrial units for lease.

Other situations which may benefit from this type of sale are land or property sales which have attracted intense local interest from several local parties with a particular interest, or where late bids have, or are considered likely to be made.

This method can provide a well organised, transparent way of achieving completion when a timeframe is essential, but is often more costly and a longer lead in period is required.

Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of detailed specification at the pre-tender stage. This is particularly so where a detailed planning permission is required, such as a listed property or property in a Conservation Area.

Authority to use this method will be required from the Corporate Directors of Regeneration and Economic Development and Resources. The formal Tender Procedure to be adopted in such cases will be agreed with the Head of Legal Services.

With a formal tender process a legally binding relationship is formed when the Council accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents should include a contract for sale or lease which should be completed with the tenderer's details, the tender price, include a deposit cheque to preclude withdrawal of the tender prior to acceptance and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender.

Sale of land by formal tender will require a detailed specification to be drawn up. This needs to specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met.

The Council will place a public advertisement stipulating the property for sale. Those who have expressed their interest will then be invited to submit their tender bids, in accordance with the tender procedure outlined.

Disposal by exchange of land

Disposal by exchange of land will be appropriate when it will achieve best consideration for the Authority and is advantageous to the Council and other parties to exchange land in their ownerships.

Authority for a disposal of land by exchange with another land owner for alternative land will be obtained from the Cabinet Member for Regeneration and Economic Development with the reasons for justifying this manner of disposal being recorded in writing. A binding legal agreement will be created when a contract is exchanged for the exchange.

The exchange will usually be equal in value, however, an inequality in land value may be compensated for by an equality payment or by other means where appropriate.

Late bids and other considerations

In the context of the methods of land disposal dealt with in this document, a late bid may occur:-

- in the case of a private sale, after a sale or lease has been agreed, but before exchange of contracts.
- in the case of a public auction, after the auction has been closed, but the reserved price not having been met.
- in the case of a formal tender, after the closing date for tenders, but before acceptance by the Council of the successful tender.
- in the case of an informal or negotiated tender, after receipt of bids, but before exchange of contracts or signing of a development agreement
- in the case of disposal by exchange, after a sale or lease has been agreed, but before exchange of contracts.

Each 'late bid' must be considered in the context of the individual circumstances at the time. The Council's approach to 'late bids' will vary depending upon the method of land disposal used. In each case, its overriding duty will be to obtain the best consideration that it can reasonably obtain (subject to any exceptions in the General Disposal Consent). The Council's approach to late bids is as follows:

- The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.
- Where land is being disposed of by way of formal tender, bids received after the deadline for tenders, will be recorded as late, together with the time and date of receipt. The Cabinet Member for Resources should decide whether to consider late bids after taking advice from the Director of Corporate Resources.
- Except as provided i until the Council has entered a legally binding contract or agreement with another person it will consider late bids unless there are good commercial reasons for not doing so. This should be explained to any purchaser when a disposal of land by private sale or negotiated/informal tender is agreed.
- Consideration of a late bid does not mean that it will necessarily be accepted even if it is the 'highest' bid. The Council will take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of late bids being used as a spoiling or delaying tactic.
- Subject to the above, the Council may, in appropriate circumstances, ask both the late bidder and other interested parties, to submit their best and final bids in a sealed envelope by a set deadline.
- A decision on whether to accept a late bid for a private sale, informal tender or by exchange are to be made either by the Cabinet Member for Regeneration and Economic Development or the Director of Regeneration and Economic Development.

A last minute bid may be rejected for sound commercial reasons. For example, if there is no real certainty of it leading speedily to a contract or is suspected as a spoiling bid.

The Council will at all times bear in mind that the overriding duty, unless a specific decision has been made to take advantage of certain exceptions as mentioned in the General Disposal Consent in order to further corporate objectives is to obtain best consideration.

In considering what amounts to 'monetary value' in terms of best consideration to be obtained, the creation of jobs or desirable social outcomes, although desirable, cannot be quantified by the Council.